



General Assembly

February Session, 2004

Amendment

LCO No. 4290

HB0535504290HRO

Offered by:

REP. BOUCHER, 143rd Dist.

To: Subst. House Bill No. 5355

File No. 292

Cal. No. 210

"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 21a-277 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2004*):

5 (a) Any person who manufactures, distributes, sells, prescribes,
6 dispenses, compounds, transports with the intent to sell or dispense,
7 possesses with the intent to sell or dispense, offers, gives or
8 administers to another person any controlled substance which is a
9 hallucinogenic substance other than marijuana, or a narcotic substance,
10 except as authorized in this chapter, for a first offense, shall be
11 imprisoned not more than [fifteen] twenty years and may be fined not
12 more than fifty thousand dollars or be both fined and imprisoned; and
13 for a second offense shall be imprisoned not more than [thirty] thirty-
14 five years and may be fined not more than one hundred thousand
15 dollars, or be both fined and imprisoned; and for each subsequent

16 offense, shall be imprisoned not more than [thirty] thirty-five years
17 and may be fined not more than two hundred fifty thousand dollars,
18 or be both fined and imprisoned.

19 (b) Any person who manufactures, distributes, sells, prescribes,
20 dispenses, compounds, transports with intent to sell or dispense,
21 possesses with intent to sell or dispense, offers, gives or administers to
22 another person any controlled substance, except a narcotic substance,
23 or a hallucinogenic substance other than marijuana, except as
24 authorized in this chapter, may, for the first offense, be fined not more
25 than twenty-five thousand dollars or be imprisoned not more than
26 [seven] twelve years or be both fined and imprisoned; and, for each
27 subsequent offense, may be fined not more than one hundred
28 thousand dollars or be imprisoned not more than [fifteen] twenty
29 years, or be both fined and imprisoned.

30 (c) No person shall knowingly possess drug paraphernalia in a drug
31 factory situation as defined by subdivision (20) of section 21a-240, as
32 amended, for the unlawful mixing, compounding or otherwise
33 preparing any controlled substance for purposes of violation of this
34 chapter.

35 (d) As an alternative to the sentences specified in subsections (a)
36 and (b) of this section, the court may sentence the person to the
37 custody of the Commissioner of Correction for an indeterminate term
38 not to exceed [three] eight years or the maximum term specified for the
39 offense, whichever is the lesser, and, at any time within such
40 indeterminate term and without regard to any other provision of law
41 regarding minimum term of confinement, the Commissioner of
42 Correction may release the convicted person so sentenced subject to
43 such conditions as he may impose including, but not limited to,
44 supervision by suitable authority. At any time during such
45 indeterminate term, the Commissioner of Correction may revoke any
46 such conditional release in his discretion for violation of the conditions
47 imposed and return the convicted person to a correctional institution.

48 Sec. 2. Section 21a-278 of the general statutes is repealed and the
49 following is substituted in lieu thereof (*Effective October 1, 2004*):

50 (a) Any person who manufactures, distributes, sells, prescribes,
51 dispenses, compounds, transports with the intent to sell or dispense,
52 possesses with the intent to sell or dispense, offers, gives or
53 administers to another person one or more preparations, compounds,
54 mixtures or substances containing an aggregate weight of one ounce or
55 more of heroin, methadone or cocaine or an aggregate weight of one-
56 half gram or more of cocaine in a free-base form or a substance
57 containing five milligrams or more of lysergic acid diethylamide,
58 except as authorized in this chapter, and who is not, at the time of such
59 action, a drug-dependent person, shall be imprisoned for a minimum
60 term of not less than [five] ten years nor more than [twenty] twenty-
61 five years; and, a maximum term of life imprisonment. The execution
62 of the mandatory minimum sentence imposed by the provisions of this
63 subsection shall not be suspended except the court may suspend the
64 execution of such mandatory minimum sentence if at the time of the
65 commission of the offense (1) such person was under the age of
66 eighteen years, or (2) such person's mental capacity was significantly
67 impaired but not so impaired as to constitute a defense to prosecution.

68 (b) Any person who manufactures, distributes, sells, prescribes,
69 dispenses, compounds, transports with the intent to sell or dispense,
70 possesses with the intent to sell or dispense, offers, gives or
71 administers to another person any narcotic substance, hallucinogenic
72 substance other than marijuana, amphetamine-type substance, or one
73 kilogram or more of a cannabis-type substance except as authorized in
74 this chapter, and who is not at the time of such action a drug-
75 dependent person, for a first offense shall be imprisoned not less than
76 [five] ten years nor more than [twenty] twenty-five years; and for each
77 subsequent offense shall be imprisoned not less than [ten] fifteen years
78 nor more than [twenty-five] thirty years. The execution of the
79 mandatory minimum sentence imposed by the provisions of this
80 subsection shall not be suspended except the court may suspend the
81 execution of such mandatory minimum sentence if at the time of the

82 commission of the offense (1) such person was under the age of
83 eighteen years, or (2) such person's mental capacity was significantly
84 impaired but not so impaired as to constitute a defense to prosecution.

85 Sec. 3. Section 21a-278a of the general statutes is repealed and the
86 following is substituted in lieu thereof (*Effective October 1, 2004*):

87 (a) Any person eighteen years of age or older who violates section
88 21a-277 or 21a-278, as amended by this act, and who is not, at the time
89 of such action, a drug-dependent person, by distributing, selling,
90 prescribing, dispensing, offering, giving or administering any
91 controlled substance to another person who is under eighteen years of
92 age and is at least two years younger than such person who is in
93 violation of section 21a-277 or 21a-278, as amended by this act, shall be
94 imprisoned for a term of [two] seven years, which shall not be
95 suspended and shall be in addition and consecutive to any term of
96 imprisonment imposed for violation of section 21a-277 or 21a-278, as
97 amended by this act.

98 (b) Any person who violates section 21a-277 or 21a-278, as amended
99 by this act, by manufacturing, distributing, selling, prescribing,
100 dispensing, compounding, transporting with the intent to sell or
101 dispense, possessing with the intent to sell or dispense, offering, giving
102 or administering to another person any controlled substance in or on,
103 or within one thousand five hundred feet of, the real property
104 comprising a public or private elementary or secondary school, a
105 public housing project or a licensed child day care center, as defined in
106 section 19a-77, as amended, that is identified as a child day care center
107 by a sign posted in a conspicuous place shall be imprisoned for a term
108 of [three] eight years, which shall not be suspended and shall be in
109 addition and consecutive to any term of imprisonment imposed for
110 violation of section 21a-277 or 21a-278, as amended by this act. To
111 constitute a violation of this subsection, an act of transporting or
112 possessing a controlled substance shall be with intent to sell or
113 dispense in or on, or within one thousand five hundred feet of, the real
114 property comprising a public or private elementary or secondary

115 school, a public housing project or a licensed child day care center, as
116 defined in section 19a-77, as amended, that is identified as a child day
117 care center by a sign posted in a conspicuous place. For the purposes
118 of this subsection, "public housing project" means dwelling
119 accommodations operated as a state or federally subsidized
120 multifamily housing project by a housing authority, nonprofit
121 corporation or municipal developer, as defined in section 8-39,
122 pursuant to chapter 128 or by the Connecticut Housing Authority
123 pursuant to chapter 129.

124 (c) Any person who employs, hires, uses, persuades, induces,
125 entices or coerces a person under eighteen years of age to violate
126 section 21a-277 or 21a-278, as amended by this act, shall be imprisoned
127 for a term of [three] eight years, which shall not be suspended and
128 shall be in addition and consecutive to any term of imprisonment
129 imposed for violation of section 21a-277 or 21a-278, as amended by this
130 act.

131 Sec. 4. Section 21a-279 of the general statutes is repealed and the
132 following is substituted in lieu thereof (*Effective October 1, 2004*):

133 (a) Any person who possesses or has under his control any quantity
134 of any narcotic substance, except as authorized in this chapter, for a
135 first offense, may be imprisoned not more than [seven] twelve years or
136 be fined not more than fifty thousand dollars, or be both fined and
137 imprisoned; and for a second offense, may be imprisoned not more
138 than [fifteen] twenty years or be fined not more than one hundred
139 thousand dollars, or be both fined and imprisoned; and for any
140 subsequent offense, may be imprisoned not more than [twenty-five]
141 thirty years or be fined not more than two hundred fifty thousand
142 dollars, or be both fined and imprisoned.

143 (b) Any person who possesses or has under his control any quantity
144 of a hallucinogenic substance other than marijuana or four ounces or
145 more of a cannabis-type substance, except as authorized in this
146 chapter, for a first offense, may be imprisoned not more than [five] ten

147 years or be fined not more than two thousand dollars or be both fined
148 and imprisoned, and for a subsequent offense may be imprisoned not
149 more than [ten] fifteen years or be fined not more than five thousand
150 dollars or be both fined and imprisoned.

151 (c) Any person who possesses or has under his control any quantity
152 of any controlled substance other than a narcotic substance, or a
153 hallucinogenic substance other than marijuana or who possesses or has
154 under his control less than four ounces of a cannabis-type substance,
155 except as authorized in this chapter, for a first offense, may be fined
156 not more than one thousand dollars or be imprisoned not more than
157 [one year] six years, or be both fined and imprisoned; and for a
158 subsequent offense, may be fined not more than three thousand dollars
159 or be imprisoned not more than [five] ten years, or be both fined and
160 imprisoned.

161 (d) Any person who violates subsection (a), (b) or (c) of this section
162 in or on, or within one thousand five hundred feet of, the real property
163 comprising a public or private elementary or secondary school and
164 who is not enrolled as a student in such school or a licensed child day
165 care center, as defined in section 19a-77, as amended, that is identified
166 as a child day care center by a sign posted in a conspicuous place shall
167 be imprisoned for a term of [two] seven years, which shall not be
168 suspended and shall be in addition and consecutive to any term of
169 imprisonment imposed for violation of subsection (a), (b) or (c) of this
170 section.

171 (e) As an alternative to the sentences specified in subsections (a) and
172 (b) and specified for a subsequent offense under subsection (c) of this
173 section, the court may sentence the person to the custody of the
174 Commissioner of Correction for an indeterminate term not to exceed
175 [three] eight years or the maximum term specified for the offense,
176 whichever is the lesser, and at any time within such indeterminate
177 term and without regard to any other provision of law regarding
178 minimum term of confinement, the Commissioner of Correction may
179 release the convicted person so sentenced subject to such conditions as

180 he may impose including, but not limited to, supervision by suitable
181 authority. At any time during such indeterminate term, the
182 Commissioner of Correction may revoke any such conditional release
183 in his discretion for violation of the conditions imposed and return the
184 convicted person to a correctional institution.

185 (f) To the extent that it is possible, medical treatment rather than
186 criminal sanctions shall be afforded individuals who breathe, inhale,
187 sniff or drink the volatile substances defined in subdivision (49) of
188 section 21a-240, as amended."

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>